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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Chapter 1

[Docket No. FAR 2014-0052, Sequence No. 4]

**Federal Acquisition Regulation; Federal Acquisition
Circular**

2005-76; Small Entity Compliance Guide

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Small Entity Compliance Guide.

SUMMARY: This document is issued under the joint authority of DOD, GSA, and NASA. This Small Entity Compliance Guide has been prepared in accordance with section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996. It consists of a summary of the rules appearing in Federal Acquisition Circular (FAC) 2005-76, which amends the Federal Acquisition Regulation (FAR). An asterisk (*) next to a rule indicates that a regulatory flexibility analysis has been prepared. Interested parties may obtain further information regarding these rules by referring to FAC 2005-76, which precedes this document. These documents are also available via the Internet at <http://www.regulations.gov>.

DATES: [Insert date of publication in the FEDERAL REGISTER.]

FOR FURTHER INFORMATION CONTACT: For clarification of content, contact the analyst whose name appears in the table below. Please cite FAC 2005-76 and the FAR case number. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at 202-501-4755.

Rules Listed in FAC 2005-76

<u>Item</u>	<u>Subject</u>	<u>FAR Case</u>	<u>Analyst</u>
*I	Equal Employment and Affirmative Action for Veterans and Individuals with Disabilities (Interim)	2014-013	Loeb
*II	Small Business Protests and Appeals	2012-014	Morgan
*III	Allowability of Legal Costs for Whistleblower Proceedings	2013-017	Chambers
IV	Technical Amendments		

SUPPLEMENTARY INFORMATION: Summaries for each FAR rule follow. For the actual revisions and/or amendments made by these rules, refer to the specific item numbers and subjects set forth in the documents following these item summaries. FAC 2005-76 amends the FAR as specified below:

Item I—Equal Employment and Affirmative Action for Veterans and Individuals with Disabilities (FAR Case 2014-013)

DoD, GSA, and NASA are issuing an interim rule amending the FAR to implement final rules issued on September 24, 2013, by the Office of Federal Contract Compliance Programs at the Department of Labor (DOL) relating to equal opportunity and affirmative action for veterans and individuals with disabilities. The DOL rules provide clarification of mandatory listing of employment openings, the posting of notices, making notices accessible to persons with disabilities, and requiring nondiscrimination statements in contractor solicitations or advertisements for employees. The FAR clauses have been restructured to provide a citation to the applicable clause in the DOL regulations and include a statement that summarizes the contractors' top level obligations under each clause. There is no significant impact on small entities imposed by the FAR rules.

Item II—Small Business Protests and Appeals (FAR Case 2012-014)

This final rule amends the FAR to provide revised regulatory coverage for small business size and small business status protest and appeal procedures and to ensure that the FAR contains consistent and coherent protest and appeal procedures that are congruent with Small Business Administration regulations.

This final rule will have no direct negative impact on any small business concern, since it is aimed at preventing other than small business concerns from receiving or performing contracts set aside for small business concerns. This rule will indirectly benefit small business concerns by preventing awards to ineligible concerns, or shortening the length of time other than small business concerns perform small business set-aside contracts.

Item III-Allowability of Legal Costs for Whistleblower Proceedings (FAR Case 2013-017)

This finalizes an interim rule that revised the cost principle at FAR 31.205-47 to implement sections 827(g) and 828(d) of the National Defense Authorization Act for Fiscal Year 2013 (Pub. L. 112-239). The cost principle addresses the allowability of legal costs incurred by a contractor or subcontractor in connection with a whistleblower protection proceeding commenced by a contractor or subcontractor employee submitting a complaint of reprisal under the applicable whistleblower statute. The cost principle is revised in the final rule to allow reasonable legal proceeding costs in certain settlements. Because most contracts awarded to small businesses are awarded on a competitive, fixed-price basis, thus limiting their exposure to the cost principles, the impact of this interim rule on small businesses will be minimal.

Item IV-Technical Amendments

Editorial changes are made at FAR 4.605, 4.1601, and 32.009-1. The change at 32.009-1 shows the recent extension of the policy to provide accelerated payment to small business subcontractors.

Dated: July 18, 2014.

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